No. 21

400

THE

NATIONAL ASSEMBLY OF PAKISTAN

PROCEEDINGS

OF

THE SPECIAL COMMITTEE OF THE WHOLE HOUSE HELD IN CAMERA TO CONSIDER THE QADIANI ISSUE

OFFICIAL REPORT

Saturday, the 7th September, 1974

(Contain Nos. 1—21)

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PRINTED BY THE MANAGER, PRINTING CORPORATION OF PAKISTAN PRESS, ISLAMABAD.

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NATIONAL ASSEMBLY OF PAKISTAN

PROCEEDINGS OF THE SPECIAL COMMITTEE OF THE WHOLE HOUSE HELD IN CAMERA

Saturday, the 7th September, 1974

The Special Committee of the Whole House met in camera in the Assembly Chamber, (State Bank Building), Islamabad, at half past two of the clock, in the afternoon, Mr. Chairman (Sahibzada Farooq Ali) in the Chair.

بسم الله الرحمن الرحيم

RECITATION FROM THE HOLY QUR'AN

Mr. Chairman: It is very pleasant to find the House full after two and a half months. It was full on the 30th of June and credit to all those honourable members who have remained sitting here for two and a half months. There might be slight inconvenience to those persons to whom cards have been issued because we will open the gates of the Assembly when we conclude this at 4.30. So they will have to wait outside, those persons to whom the cards have been issued, and I think we must have a tea break for about fifteen minutes. Then we will meet at about 3.20 p.m.

[The Special Committee adjourned for tea break to meet at 3.20 p.m.]

[The Special Committee re-assembled at 3.40 p.m., Sahibzada Farooq Ali in the Chair.]

Mr. Chairman: Yes, Mr. Law Minister. I would request the honourable members to be attentive. One hundred and seventeen members are present.

Mr. Abdul Hafeez Pirzada (Minister for Law and Parliamentary Affairs): Mr. Chairman, three months of an ordeal before the Special, Committee of the National Assembly and 90 years of history, full of agony, of the Muslims of the Sub-continent is about to come to an end.

When this question arose soon after the 29th of May, no one could even have remotely imagined that this august body would be burdened with the onerous task of resolving a highly complicated and intricate issue involving religious sentiments of millions of Muslims in the Sub-continent and all over the world. Today, it is the victory of the democracy and the democratic institutions and democratic norms and traditions. That is why I say that an agonising chapter comes to an end. The issue with greater vengeance did arise in the Sub-continent on previous occasions also. There have been confrontations and 'munazras'. There have been killings. There have been serious riots and law and order situations, and at least on one occasion in the past democratic Governments were toppled and Martial Law was imposed in the country because of disturbances arising out of the same issue.

Sir, this is not the occasion to make a long speech. We have sat here day in and day out, but I would be failing in my duty if I did not pay a tribute to the members of this august House. Never before in the history of parliamentary democracy in south-East Asia has a democratic institution like the Parliament or the National Assembly undergone such an experience. We have parliamentary democracy in the newly created State of Bangla Desh. We have parliamentary democracy in Sri Lanka. We have parliamentary democracy in India. These, Sir, are countries in South-East Asia which have had parliamentary democracy in one form or other; even Bangla Desh when it was with us; but you shall not find a precedent of this nature in the parliamentary history of any of these countries. Under heavy odds, very provocative and offensive conditions, my colleagues, you the members of this august House, sat here patiently and objectively to arrive at a national decision, and the issue was referred to you so that you could arrive at a decision, not of an individual but a decision of the nation of Pakistan, whose representatives you are and whose mandate you hold, by virtue of which you call yourself the National Assembly or the Special Committee of the National Assembly of Pakistan.

We have heard this matter for the last three months. I must confess my own ignorance from the point of view that I did not know about this issue as deeply as some other members. Having heard it at length, we can feel why a Muslim had such a deep and emotional reaction to this issue. One thing that emerged as a result of our deliberations and sittings and discussions is that our concept as popularly understood by Muslims of the finality of Prophethood of Mohammad (peace be upon him) is a fundamental article of faith of all Muslims, and no matter what happens, this fundamental article of faith of the finality of Prophethood cannot be compromised by Muslims in any sense. That is why I said, Sir, that this was not an issue of the Government, this was not an issue of the Opposition; we had to treat it as a national issue, and the nation could ill afford to divide itself on such a vital issue and therefore, the effort of the Government, through the Government leader, the Prime Minister of Pakistan, as also all our friends who sit across the floor, was to look and search for a consensus so that the nation should not be divided on such a vital issue and the decision of the National Assembly should come unanimously and by consensus.

It is my proud privilege on behalf of the majority party and my friends there who have authorised me to move a Resolution to state before this august Committee that such consensus and unanimity has been arrived at. Sir, in a few minutes, the members of this august House shall have before them a proposed resolution that I intend to move on behalf of myself, Maulana Mufti Mahmood, Maulana Shah Ahmad Noorani Siddiqi, Prof. Ghafoor Ahmad, Mr. Ghulam Faruque, Ch. Zahur Ilahi and Sardar Moula Bakhsh Soomro. In this resoltuion, we have given the draft of recommendations that we would like to make. Now, Sir, this contains the recommendations. This has to be distributed along with the copy of the Constitution Amendment Bill.

Mr. Chairman: That too is being circulated.

Mr. Abdul Hafeez Pirzada: This should not be circulated separately. Sir, now I have got the original copy. I would like to place it for the purpose of record. Sir, what we propose for the consideration of the Committee and adoption by it, in the form of recommendation, is a resolution which contemplates constitutional masures, which contemplates legislative, administrative and procedural measures, and which also contains a reiteration of assurance of safety, security and safeguard of life, liberty, property, honour and fundamental rights of all citizens of Pakistan irrespective of the community that they belong to. Constitutional amendments I will explain and so also legislative and procedural amendments that we recommend. Before that, I would like to say that as soon as these recommendations are approved by this august House, which I am confident will be unanimous as would appear from the moving of this resolution, we will convert ourselves immediately thereafter into the National Assembly and I will take before the National Assembly the recommendations of the Committee, which, on approval, would entitle the moving of the Constitution Amendment Bill. We hope that in today's sitting we would pass the Constitution Amendment Bill and today it would be transmitted to the Senate and we hope that the Senate would also pass it today so that the chapter should stand closed today.

Now, Sir, the constitutional amendments that I recommend on behalf of myself and my friends are two-fold, that the Constitution of Pakistan be amended to include a definition of a person who is not a Muslim. This definition should come by an addition of a clause to Article 260. There are two clauses in Article 260 of the Constitution. This Article deals with definition and we would like to add clause (3) to this Article to give the definition of a non-Muslim as under:

> "(3) A person who does not believe in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him) the last of the Prophets, or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him), or recognizes such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of the Constitution or law.".

Sir, the second amendment that we propose in the Constitution is to Article 106, clause (3), which deals with reservation of seats in Provincial Assemblies for communities, over and above the general seats that have been prescribed, and the amendment that I propose in clause (3) of Article 106 is that at the end of the word or after the word 'communities', the following words be added:

> "Communities and persons of the Qadiani Group or the Lahori Group who call themselves Ahmadis. "

This is second amendment.

Sir, let me make it absolutely clear that Article 20 of our Constitution gives fundamental right of freedom to profess, propagate and practice one's own religion and every community shall be at liberty to do so, the profess, propagate and practice their own religion, but, as I said, Muslims' Finality of Prophethood, as would be defined in article 260 of the Constitution, is an article which is fundamental in faith. Therefore, we propose to recommend that the Pakistan Penal Code should be amended in section 295 (a) by the Addition of an Explanation. There is already a clause in the Pakistan Penal Code which prohibits people from propagating religion in a manner so as to be offensive to other religious beliefs. Therefore, all Muslims——because we cannot stop others from practising or professing or propagating their own religion - but if a person is a Muslim, then we have to see that all Muslims who profess, practise or propagate against the concept of Finality of Prophethood Muhammad (peace be upon him) as set out in clause (3) of Article 260 shall be punishable under the section.

Sir, naturally, with these amendments, there will be consequential procedural amendments or changes in law or rules or forms or practices, such as the National Registration Act and the Electoral Rules, and it would also be a recommendation for consideration that such consequential amendments may be made by the Government at relevant time because there might be some laws where entries might have to be changed, giving entries of people etc., and of persons and so on and so forth.

Lastly, Sir, I would like to say that we have ourselves given the Constitution by consensus. In this Constitution, we have not only given fundamental rights to the citizens but we have also guaranteed these rights, and it is the responsibility of the nation as well as of the State, both combined, the State and the nation, to see to it that all rights, whether they relate to property, liberty, life and honour or whether they be fundamental rights, as given by the Constitution, are fully protected, irrespective of cast, creed or community that a person belongs to and, therefore, this also goes without saying that the controversy has come to an end, the nightmare is coming to an end. Therefore, we shall all recommend and also practise ourselves in a manner so as to safeguard, secure and fully protect those rights guaranteed to each and every citizen. This is the sum total of our recommendation.

Thank you very much.

Mr. Chairman: The Committee of the Whole House appoves the resolution and the recommendations?

All Members: YES.

RESOLUTION TO DECLARE THE QADIANI GROUP AND THE LAHORI GROUP AS NON-MUSLIMS

Mr. Abdul Hafeez Pirzada: Sir, I will now formally move it. Sir, I beg to move:

Sir, I beg to move:

> "That the Special Committee of the whole House appoves and passes unanimously the following resolution:
>
> "The Special Committee of the whole House of the National Assembly unanimously resolves that the following recomendations be sent to the National assembly for consideration and adoption.

The Special Committee of the Whole House, assisted by its Steering Committee and Sub-Committee, having considered the resolutions before it or referred to it by the National Assembly and after perusal of the documents and examination of the witnesses, including the heads of Sadar Anjuman-i-Ahmadia, Rabwah, and Anjuman-i-Ahmadia Ishaat-i-Islam, Lahore, respectively unanimously makes the following recommendations to the National Assembly:-

(A) That the Constitution of Pakistan be amended as follows:

- (i) that in Article 106(3) a reference be inserted to persons of the Qadiani Group and the Lahori Group (who call themselves 'Ahmadis');
- (ii) that a non-Muslim may be defined in a new clause in Article 260.

To give effect to the above recommendations, a draft Bill unanimously agreed upon by the Special Committee is appended.

(B) That the following Explanation be added to section 295-A of the Pakistan Penal Code:-

"*Explanation.*-A Muslim who professes, practises or propagates against the concept of the finality of the Prophethood of Muhammad (peace be upon him) as set out in clause (3) of Article 260 of the Constitution shall be punishable under this section."

(C) That consequential legislative and procedural amendments may be made in the relevant laws, such as the National Registration Act, 1973, and the Electoral Rolls Rules, 1974.

(D) That the life, liberty, property, honour and fundamental rights of all citizens of Pakistan, irrespective of the Communities to which they belong, shall be fully protected and safeguarded."

Sd/- ABDUL HAFEEZ PIRZADA,
MAULVI MUFTI MAHMOOD,
MAULANA SHAH AHMAD NOORANI SIDDIQI,
PROF. GHAFOOR AHMAD,
MR. GHULAM FARUQUE,
CH. ZAHUR ELAHI,
SARDAR MOULA BUKHSH SOOMRO."."

Mr. Chairman: The motion moved is:

"That the Special Committee of the whole House appoves and passes unanimously the following resolution:

"The Special Committee of the whole House of the National Assembly unanimously resolves that the following recomendations be sent to the National assembly for consideration and adoption.

The Special Committee of the Whole House, assisted by its Steering Committee and Sub-Committee, having considered the resolutions before it or referred to it by the National Assembly and after perusal of the documents and examination of the witnesses, including the heads of Sadar Anjuman-i-Ahmadia, Rabwah, and Anjuman-i-Ahmadia Ishaat-i-Islam, Lahore, respectively unanimously makes the following recommendations to the National Assembly:-

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(D) That the life, liberty, property, honour and fundamental rights of all citizens of Pakistan, irrespective of the Communities to which they belong, shall be fully protected and safeguarded."

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MAULVI MUFTI MAHMOOD,
MAULANA SHAH AHMAD NOORANI SIDDIQI,
PROF. GHAFOOR AHMAD,
MR. GHULAM FARUQUE,
CH. ZAHUR ELAHI,
SARDAR MOULA BUKHSH SOOMRO."."

Mr. Chairman: The question is:-

> "That the Special Committee of the whole House appoves and passes unanimously the following resolution:
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> "The Special Committee of the whole House of the National Assembly unanimously resolves that the following recommendations be sent to the National assembly for consideration and adoption.

The Special Committee of the Whole House, assisted by its Steering Committee and Sub-Committee, having considered the resolutions before it or referred to it by the National Assembly and after perusal of the documents and examination of the witnesses, including the heads of Sadar Anjuman-i-Ahmadia, Rabwah, and Anjuman-i-Ahmadia Ishaat-i-Islam, Lahore, respectively unanimously makes the following recommendations to the National Assembly:-

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(D) That the life, liberty, property, honour and fundamental rights of all citizens of Pakistan, irrespective of the Communities to which they belong, shall be fully protected and safeguarded."

Sd/- ABDUL HAFEEZ PIRZADA,
MAULVI MUFTI MAHMOOD,
MAULANA SHAH AHMAD NOORANI SIDDIQI,
PROF. GHAFOOR AHMAD,
MR. GHULAM FARUQUE,
CH. ZAHUR ELAHI,
SARDAR MOULA BUKHSH SOOMRO."."

The motion was adopted unanimously.

SECRECY OF THE PROCEEDINGS

The Chairman: Before I adjoium the Special Committee and convert itself into the National Assembly, I just want to remind the honourable members that they are in possession of the documents and the proceedings of the House Committee. All these papers are confidential and secret papers and shall not be published and shall not be leaked out or shall not be told about to any person unless and until the Assembly authorises the publication of such record as it deems fit.

In the end I would also like to thank all the honourable members irrespective of which party they belong to.

مولانا غلام غوث ہزاروی: جناب والا! میں عرض کرتا ہوں کہ اب کیا ضرورت ہے

جناب چیئر مین: جب چیئر مین بول رہا ہو تو نہیں بولنا چاہیے کسی معزز ممبر کو۔

جناب عبدالحفیظ پیرزادہ: مولانا صاحب! میں آپ کو سمجھاؤں گا کہ ہم نے اس ہاؤس کمیٹی کی طرف سے رپورٹ پیش کرنی ہے تجاویز کے لیے جو ہم نے کارکردگی کی ہے۔

جناب چیئر مین: مولانا صاحب! اس کے علاوہ کئی باتیں ہیں مثلاً، میں آپکو یاد دلاتا ہوں کہ آپ بیت الخلا کی باتیں کرتے رہے ہیں corrections کریں گے تو پھر اس کے بعد کریں گے۔

Dr. Mubashir Hasan (Minister for Finance, Planning and Development): Sir, why should secret session proceedings be published unless the Assembly decides otherwise?

Mr. Chairman: Yes, I may quote a precedent. These proceedings are just like the proceedings of the Constitution Committee, which have not been published and which have not been authorised to be published.

So before we adjourn this Committee *sine die* and it becomes *functus officio* I would like to place on record my thanks to all the honourable members irrespective of which side they belong to, and my special thanks to the Attorney-General, the Law Minister and all those persons.

Mr. Abdul Hafeez Pirzada: Sir, we are all thankful to the Attorney-General for the labour that he put in. I would like it to be placed on record unanimously.

Mr. Chairman: I would like to place it on record that I share the sentiments expressed by the Law Minister. Also, thanks are due to those members who have been regularly attending the Special Committee meetings. I want to specially place on record my thanks specially to those faces which I see today. I also thank them. We will meet at 4.30.

Mr. Abdul Hafeez Pirzada: One thing more, Sir. I would

4.30 p.m. because we are meeting as National Assembly, whereafter presentation of these recommendations which have been unani- mously approved by the House Committee, I would be introducing straightaway the Constitution Amendment Bill and, therefore, every member will be needed for the passage of this Bill.

Mr. Chairman: At 4.30 we meet as National Assembly. Thank you very much.

[The Special Committee of the Whole House adjourned sine die]

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VEHARI

21. M/s. Rahmat Printing Services, Ahata Shah Nawaz, Mandi Burewala, District Vehari.

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